

BEFORE RAJENDER KUMAR, ADJUDICATING OFFICER, HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM.

Complaint No. :2115-2025

Date of Decision: 25.08.2026

Shefali Sharma daughter of Rakesh Sharma, Tower 2,1406 Valley View Estate, Gwalpahari, Gurugram.

..... Complainant.

Versus

M/s Sunrays Heights Private Limited, 211, 2nd Floor, Ansal Bhawan, 16 Kasturba Gandhi Marg, New Delhi-110001.

..... Respondent.

APPEARANCE

For Complainant:

Mr. Vijay Pratap Singh, Advocate.

For Respondent:

Mr. Kanish Bangia, Advocate.

ORDER

This is a complaint filed by Ms. Shefali Sharma (allottee), under section 31 of The Real Estate (Regulation and Development), Act 2016 (in brief "Act of 2016") against M/s Sunrays Heights Pvt. Ltd. (promoter).



2. Briefly stated, according to the complainant, she applied for a one BHK residential unit in the project "Sixty-Three Gold Drive" situated at Sector-63A, Gurugram and paid Rs.73,950/- towards booking the unit. She (complainant) was allotted Unit H-116 in Tower-H admeasuring 366.25 sq. ft, and 69.84 sq. ft. balcony. A Builder Buyer's Agreement (BBA) was executed between the parties on 08.07.2019. Total sale consideration was agreed as Rs.14,99,920/-. Due date of possession was 15.03.2021. On 14.06.2023, she (complainant) paid Rs.14,18,444/- on the demand raised by the respondent.
3. That the project was already delayed by more than 4 years. She (complainant) has financed the said flat through ICICI Bank for Rs.15 lakhs in the year 2019 and paid heavy EMIs to the bank along with interest of Rs.3,91,967/- w.e.f. 01.04.2021 till 31.10.2024. She also suffered mental agony and harassment. The possession of the flat was never delivered to her (complainant), rather the amount was retained by the respondent inappropriately. Being aggrieved with the acts of the respondent, she (complainant) filed a complaint before the Authority, which was disposed of by the Authority.

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4. Citing facts as mentioned above, the complainant has prayed for following reliefs: -

- i. to direct the respondent to pay interest amount of Rs.3,91,967/- as paid to ICICI Bank for the period from 01.04.2021 to 05.08.2024 plus future interest till the date of possession;
- ii. to direct the respondent to pay litigation expenses of Rs.50,000/-
- iii. to direct the respondent to pay compensation of Rs.50,000/- for causing harassment and mental agony;
- iv. to direct the respondent to pay Rs.20,000/- towards the travelling cost incurred on visits to respondent office and site for resolution.

5. The respondent contested the complaint by filing a written reply. It is averred that the delay of 422 days in the seamless execution of the project was due to genuine force majeure circumstances. Further, the complainant failed to make any payment of the instalment due within 36 months from due date of allotment along with partial payments towards previous installments. Due to default of the complainant, it (respondent) had to take loan to complete the project and is bearing with interest on such amount. With these submissions, the respondent prayed for dismissal of present complaint.


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6. Both of the parties filed affidavits in support of their claims. I have heard learned counsels appearing for both of parties and perused the record.
7. As described above, the complainant approached the Authority seeking delayed possession charges by filing a complaint no.3961 of 2024. Said complaint was allowed by the Authority vide order dated 11.07.2025 and the respondent has been directed to pay delayed possession charges at the prescribed rate of interest @ 11.10% p.a. for every month of delay from due date of possession till the date of valid offer of possession or actual handing over of the unit, whichever is earlier.
8. It is contended by learned counsel for the complainant that despite said order of the Authority, it is for the Adjudicating Officer to allow compensation for delay in handing over possession, in view of section 72 of Act of 2016. Learned counsel reminded that this Forum (AO) has jurisdiction to allow compensation in view of Sections 12, 14, 18 and 19 of said Act. Section 18 (3) prescribes for liability of promoter to pay compensation to the allottees, if same (promoter) fails to discharge any other obligation imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the

agreement for sale. Learned counsel claims that where the respondent (promoter) failed to discharge its obligation of handing over possession in agreed time, as per terms and conditions of BBA, same is liable to pay compensation.

9. As per Section 18 (1) of Act of 2016, if promoter fails to complete or unable to give possession of an apartment, plot or building, (a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein, (b)-----, he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot or building, as the case may be, with interest at such rate as may be prescribed in this behalf **including compensation, in the manner as provided under this Act.**

10. It is worth mentioning here that the complainant did not wish to withdraw from the project but prayed for delayed possession compensation, by filing a complaint with the Authority. The said complaint has already been allowed. Proviso added to sub section (1) of section 18 provides that where an allottee does not intend to withdraw from the

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project, he shall be paid by the promoter interest for every month of delay till handing over of possession, at such rate as may be prescribed. The parliament did not intend to provide compensation other than DPC in case allottee does not intend to withdraw from the project.

11. Upholding that the claim of compensation and interest can be allowed only in case the allottee seeks to withdraw from the project as per Section 18 (1) of Act of 2016, following was held by Uttar Pradesh Real Estate Appellate Tribunal in case **"Greater Noida Industrial Development Authority vs. Ranjan Misra"** Appeal No. 70 of 2023 decided on 20.04.2023-----;

"13.9. If we closely examine the above two provisions, it comes out that in a case where the Allottee exists the projects, the Act expressly provides INTEREST AND COMPENSATION both, but in cases where the Allottee tends to stay in the project the Allottee is only entitled for interest of every month till the handing over of the possession. Thus, the intention of the legislature was to provide Compensation only to those Allottees who exit the project and not to those who tends to stay in the project."

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12. When complainant has already been allowed delayed possession compensation by the Authority for delay in handing over possession of allotted unit, there is no reason to allow separate compensation for same cause of action i.e. delay in delivering of possession.

13. Complaint in hands is thus dismissed. File be consigned to the record room.

Announced in open Court
today i.e. on **25.08.2026**.


(Rajender Kumar)
Adjudicating Officer,
Haryana Real Estate Regulatory,
Gurugram.

Present: Mr. Vijay Partap Singh, Advocate for the complainant.
Mr. Kanish Bangia, Advocate for the respondent.

Complaint is disposed of, vide separate order today.

File be consigned to record room.


(Rajender Kumar)
Adjudicating Officer,
25.08.2026